HON'BLE SRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G.BHAVANI PRASAD

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WRIT APPEAL NO.493 OF 2006

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Between:

The Chief Secretary, Government of Jammu & Kashmir, Srinagar (India) and another.

...APPELLANTS

AND

Smt.M.C.Adilakshmamma, W/o.Late Shri M.C.Ramachandra Reddy, R/o.Muthukur Village & Post, Cuddapah District and four others.

...RESPONDENTS

:: JUDGMENT ::

Counsel for the Appellants/ : Sri A.Satya Prasad.

Counsel for the Respondent No.1 : Sri V.Venkatarami Reddy.

Counsel for the Respondent Nos.2 to 5 : Sri A.Raja Shekar Reddy

April 25, 2006

Per G.S.SINGHVI, CJ

This appeal is directed against the order dated 07.11.2005 passed by the learned Single Judge in W.P.No.5718 of 2001 whereby he partly allowed the claim of respondent No.1 and directed the appellants to pay her a sum of Rs.1,25,000/- (Rupees one lakh twenty five thousand only) by way of ex-gratia in terms of the Order No.723-GR (GAD) of 1990, dated 10.07.1990.

At the hearing, we enquired from the learned Special Government Pleader as to why the State has chosen to file appeal in a matter involving claim of the widow of a member of para-military force who was killed while on duty. In reply, the learned Special Government Pleader very fairly stated that he had advised the Government that the order passed by the learned Single Judge may not be challenged, but the department concerned decided to file appeal because it was thought that the impugned order may not become a precedent for other cases.

In our opinion, the apprehension expressed by the departmental authorities that the order under challenge may become precedent for other similar cases is not well

founded. As and when a case is filed by a legal heir or dependant of an employee, who dies while on duty, the same will be required to be decided on its own merit and keeping in view the relevant rules and orders. In the present case, the learned Single Judge has not decided any principle of law or policy. Rather, he entertained the claim of respondent No.1 because her entitlement to get ex-gratia had already been determined by order dated 01.09.1999 passed in W.P.No.12406 of 1997. What the learned Single Judge has done is to calculate the amount payable to respondent No.1 and issued direction for payment of the said amount. In our opinion, the order does not suffer from any jurisdictional error or patent legal infirmity requiring interference by the Division Bench. Hence, the appeal is dismissed.

However, it is made clear that the order passed by the learned Single Judge for doing substantial justice to respondent No.1 shall not be treated as a precedent for other cases and the appellant shall be entitled to contest any such future litigation on its own merits.

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(G.S.SINGHVI, CJ)

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(G.BHAVANI PRASAD, J)

25th April 2006

RRB/SVS

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